

Amend Section 87101 to read:

87101 DEFINITIONS

87101

(a) – (c) (Continued)

(d) (1) (Continued)

(2) "Deep Tissue Pressure Injury" means intact or non-intact skin with a localized area of persistent deep red, maroon, or purple discoloration or a separation in the protective outer layer of the skin that reveals a dark wound bed or blood-filled blister. Discoloration of the injury may appear differently in darkly pigmented skin. This injury occurs as a result of intense and/or prolonged pressure and the force of shear, an action or stress that causes internal parts of the body to become deformed, at the bone-to-muscle interface. If tissue, fascia, muscle, or other structures under the skin are visible, there will be a full thickness pressure injury that is identified as unstageable, a Stage 3, or Stage 4 deep tissue injury.

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) (Continued)

(67) (Continued)

(78) (Continued)

(89) (Continued)

(910) (Continued)

(1011) (Continued)

(e) – (f) (Continued)

(g) (1) "Gender Expression" means a person's appearance and behavior, whether or not these are stereotypically associated with the person's sex assigned at birth.

- (2) "Gender Identity" means a person's stated identification with a sex, regardless of whether the stated sex is consistent with the person's physical appearance, surgical history, genitalia, legal sex, sex assigned at birth, or name and sex, as they appear in medical records, and regardless of any statement by any other person, including a family member, conservator, or legal representative, that is contrary. A person who lacks the ability to communicate gender identity retains the gender identity most recently expressed by that person.
- (3) "Gender-Nonconforming" means a person whose gender expression does not conform to stereotypical expectations of how a man or woman should appear or behave.
- (14) "Guardian" means a person appointed by the Superior Court pursuant to Probate Code section 1500 et seq. to care for the person, or person and estate, of a child.
- (h) (1) "Healing wounds" include cuts, stage one and two ~~dermal ulcers~~ pressure injuries ~~as diagnosed by a physician, and incisions that are being treated by an appropriate skilled professional~~ with the affected area returning to its normal state. They may involve breaking or laceration of the skin and usually damage to the underlying tissues.
- (2) - (7) (Continued)
- (i) – (k) (Continued)
- (l) (1) "LGBT" means lesbian, gay, bisexual, or transgender.
- (12) ~~"License" is defined in Health and Safety Code section 1569.2(g)~~ means a basic permit to operate a residential care facility for the elderly.
- (23) (Continued)
- (34) (Continued)
- (45) (Continued)
- (m) through (p)(1) - (3) (Continued)

(4) "Pressure Injury" means localized damage to the skin and/or soft tissue under the skin that is usually over a bony part of the body or related to a medical or other device. This damage can appear as intact skin or an open ulcer and may be painful. It occurs as a result of intense and/or prolonged pressure on the affected part of the body or pressure combined with shear, an action or stress that causes internal parts of the body to become deformed. Based on appearance and severity, the damage to tissue is a Stage 1, 2, 3, or 4 pressure injury.

(5) "Privately Operated Facility" means a residential care facility for the elderly that is licensed to an individual, firm, partnership, association, or corporation.

(46) (Continued)

(57) (Continued)

(68) (Continued)

(9) "Publicly Operated Facility" means a residential care facility for the elderly that is licensed to a city, county, or other government entity.

(q) - (s) (Continued)

(t) (1) - (2) (Continued)

(3) "Transgender" means a person whose gender identity is different from the person's assigned or presumed sex at birth.

(4) "Transition" means to undergo a process by which a person changes physical sex characteristics or gender expression to match the person's inner sense of being male or female. This process may include, among other things, a name change, a change in pronoun, and a change in social gender expression, as indicated by hairstyle, clothing, and restroom use. Transition may or may not include hormone use and surgery.

(u) (1) (Continued)

(2) "Unlicensed Residential Care Facility for the Elderly" means a facility as defined in Health and Safety Code section 1569.44.

Handbook (Continued)

(A) (Continued)

(B) (Continued)

~~(1)~~ 1.(Continued)

~~(2)~~ 2.(Continued)

~~(3)~~ 3.(Continued)

~~(4)~~ 4.(Continued)

(C) (Continued)

~~(1)~~ 1.(Continued)

~~(2)~~ 2.(Continued)

(3) "Unstageable pressure injury" means a pressure injury with obscured full-thickness loss of skin and tissue in which the extent of tissue damage in the ulcer cannot be confirmed because it is covered by abnormal tissue in the form of slough or eschar. If slough or eschar is removed, a Stage 3 or Stage 4 pressure injury will be revealed.

(v) - (z) (Continued)

Authority cited: Sections 1569.23, 1569.30, 1569.318, 1569.616 and 1569.698, Health and Safety Code.

Reference: 42 CFR 418.3; Sections 1439.50, 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191, 1569.193, 1569.20, 1569.21, 1569.23, 1569.31, 1569.312, 1569.33, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.626, 1569.651, 1569.655, 1569.699, 1569.73, 1569.74, 1569.82, 1569.880, 1771 and 1797.196, Health and Safety Code; Sections 5350, 15610.13 and 15610.67, Welfare and Institutions Code; Sections 1500, 1800 and 4780, Probate Code.

Amend Section 87102 to read:

87102 DESCRIPTIONS OF FORMS

87102

The forms specified in subsections (j) through (l) only apply to this chapter, Chapter 8 (Residential Care Facilities for the Elderly). The following forms, which are incorporated by reference, specified in subsections (a) through (i) also apply to the regulations in Title 22, Division 6, Chapters 5 (Group Homes), and 6 (Adult Residential Facilities) and 8 (Residential Care Facilities for the Elderly), except for PUB 325 and the RCFE Core of Knowledge which only apply to Chapter 8. All forms in this section are incorporated, in their entirety, by reference.

- (a) LIC 9139 (01/16) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (01/16) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9140A (01/16) - Request to Add or Replace Instructor, Administrator Certification Program.
- (d) LIC 9141 (01/16) - Vendor Application/Renewal, Administrator Certification Program.
- (e) LIC 9142A (01/16) – Roster of Participants - for Vendor Use Only, Administrator Certification Program.
- (f) LIC 9142B (01/16) – Roster of Participants – for Exam Proctoring Only, Administrator Certification Program.
- (g) LIC 9163 (3/11) – Request for Live Scan Service – Community Care Licensing.
- (h) LIC 508 (7/15) Criminal Record Statement.
- (i) LIC 9214 (01/16) – Application for Administrator Certification, Administrator Certification Program.
- (j) PUB 325 (3/12) – Your Right To Make Decisions About Medical Treatment.
- (k) Core of Knowledge Training Standard (01/16) - RCFE 80-Hour Initial Certification.
- (l) PUB 475 (1/15) - Residential Care Facility for the Elderly (RCFE) Complaint Poster.

Authority cited: Sections 1530, 1569.616(i)(1) and 1569.30, Health and Safety Code.

Reference: Sections 1522.41, 1562.3, 1569.267, 1569.269 and 1569.616, Health and Safety Code.

Amend Section 87109 to read:

87109 TRANSFERABILITY OF LICENSE

87109

(a) (Continued)

- (b) The licensee shall notify the licensing agency and all residents receiving services, or their ~~responsible persons~~ representatives, in writing as soon as possible and in all cases at least ~~sixty (60)~~ thirty (30) days prior to ~~the effective date that any change in ownership of the facility occurs as required by Health and Safety Code section 1569.191(a)(1)~~ the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer, as specified in Health and Safety Code Section 1569.191.

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Health and Safety Code section 1569.191 provides:

- "(a) Notwithstanding Section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:
- (1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least 30 days prior to the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer.
 - (2) The licensee shall, prior to entering into an admission agreement, inform all residents, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.
- (b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license within the appropriate provisions of this chapter.
- (1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency.

- (2) The prospective buyer shall submit an application for a license, as specified in Section 1569.15, within five days of the acceptance of the offer by the seller.
- (c) No sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice has been provided pursuant to paragraphs (1) and (2) of subdivision (a).
- (d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1569.15.
- (e) If the parties involved in the transfer of the property and business fully comply with this section, then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes a final determination on the application for licensure.
- (f) Facilities that are subject to Chapter 10 (commencing with Section 1770) of Division 2, including Section 1789.4, shall not be subject to paragraph (1) of subdivision (a), and subdivisions (c) and (d)."

HANDBOOK ENDS HERE

(c) - (d) (Continued)

Authority cited: Section 1569.30~~(a)~~, Health and Safety Code.

Reference: Sections 1569.11 and 1569.191, Health and Safety Code.

Amend Section 87309 to read:

87309 STORAGE SPACE

87309

(a) - (3) (Continued)

(b) Medicines which are centrally stored shall be stored as specified in Section 87465~~(e)~~ and separately from other items specified in (a) above.

(c) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.31 and 1569.312, Health and Safety Code.

Amend Section 87468 to read:

87468 PERSONAL RIGHTS OF RESIDENTS

87468

- (a) ~~Each resident~~ Residents in residential care facilities for the elderly shall have personal rights which include, but are not limited to, ~~the following: those listed in Sections 87468.1, Personal Rights of Residents in All Facilities, and 87468.2,~~ Additional Personal Rights of Residents in Privately Operated Facilities, as applicable to the facility.
- ~~(1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons.~~
- (1) "Privately operated facility" means a residential care facility for the elderly that is licensed to an individual, firm, partnership, association, or corporation.
- ~~(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.~~
- (2) "Publicly operated facility" means a residential care facility for the elderly that is licensed to a city, county, or other government entity.
- ~~(3) To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination.~~
- ~~(4) To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency.~~
- ~~(5) To have the freedom of attending religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.~~

- (6) ~~To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents; nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders.~~
- (7) ~~To visit the facility prior to residence along with his/her family and responsible persons.~~
- (8) ~~To have his/her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs.~~
- (9) ~~To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.~~
- (10) ~~To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313.~~

HANDBOOK BEGINS HERE

~~Health and Safety Code section 1569.313 provides that:~~

~~This policy shall be designed to encourage regular family involvement with the resident and shall provide ample opportunities for family participation in activities at the facility.~~

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- (11) ~~To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.~~
- (12) ~~To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money.~~
- (13) ~~To have access to individual storage space for private use.~~
- (14) ~~To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.~~
- (15) ~~To mail and receive unopened correspondence in a prompt manner.~~

- ~~(16) To receive or reject medical care, or other services.~~
- ~~(17) To receive assistance in exercising the right to vote.~~
- ~~(18) To move from the facility.~~
- (b) At the time the admission agreement is signed, a resident and the resident's ~~responsible person or conservator~~ representative shall be personally advised of and given a list of these rights. ~~a copy of:~~ The licensee shall have each resident and the resident's responsible person or conservator sign a copy of these rights, and the signed copy shall be included in the resident's record.
 - (1) The personal rights of residents specified in Sections 87468.1, Personal Rights of Residents in All Facilities or and 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities, as applicable to the facility.
 - (A) The licensee shall have each resident and the resident's representative sign a copy of these rights, and the signed copy shall be included in the resident's record.
 - (2) A nondiscrimination notice.
 - (A) The notice shall read "[Name of facility] does not discriminate and does not permit discrimination, including, but not limited to, bullying, abuse, or harassment, on the basis of actual or perceived sexual orientation, gender identity, gender expression, or HIV status, or based on association with another individual on account of that individual's actual or perceived sexual orientation, gender identity, gender expression, or HIV status. You may file a complaint with the Office of the State Long-Term Care Ombudsman [provide contact information] if you believe that you have experienced this kind of discrimination."
 - (B) The licensee shall have each resident and the resident's representative sign a copy of this notice, and the signed copy shall be included in the resident's record.
- ~~(c) Facilities licensed for seven (7) or more shall prominently post, in areas accessible to the residents and their relatives, the following:~~
 - ~~(1) Procedures for filing confidential complaints.~~
 - ~~(2) A copy of these rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.~~

- (c) Licensees shall prominently post personal rights, nondiscrimination notice, and complaint information in areas accessible to residents, representatives, and the public.
- (1) The personal rights of residents specified in Sections 87468.1, Personal Rights of Residents in All Facilities and 87468.2, Additional Personal Rights of Residents in Privately Operated Facilities shall be posted as applicable to the facility.
- (2) Information on the appropriate reporting agency in case of a complaint or emergency, including procedures for filing confidential complaints, shall be posted as follows:
- (A) Licensees may use the Residential Care Facility for the Elderly (RCFE) Complaint Poster (PUB 475) or may develop their own poster as provided in this section. A poster developed by the licensee shall contain the same content as the PUB 475. The poster that is posted shall be 20" x 26" in size and be posted in the main entryway of the facility. PUB 475 may be accessed, downloaded, and printed from the www.cclld.ca.gov website.
- ~~(d) The information in (c) above shall be posted in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read.~~
- (d) Licensees shall post the personal rights, nondiscrimination notice, and complaint information specified above in English, and, in any other language in which at least five (5) percent of the residents can only read that other language.
- (e) At the request of the Department, and immediately if the request is made during an inspection, a licensee shall provide the Department with a confidential list of residents that includes the language(s) read by each resident, which is to be kept confidential to the extent permitted by law. This list shall be maintained in an accurate and current status at all times.

Authority cited: Section 1569.30 and 1569.318, Health and Safety Code.

Reference: Sections 1439.51, 1569.1, 1569.265, 1569.267, 1569.269, 1569.31, 1569.312 ~~and 1569.313~~, 1569.33 and 1569.889, Health and Safety Code.

Adopt Section 87468.1 to read:

87468.1 PERSONAL RIGHTS OF RESIDENTS IN
ALL FACILITIES

87468.1

- (a) Residents in all residential care facilities for the elderly shall have all of the following personal rights:
- (1) To be accorded dignity in their personal relationships with staff, residents, and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.
 - (3) To be free from punishment, humiliation, intimidation, abuse, or other actions of a punitive nature, such as withholding residents' money or interfering with daily living functions such as eating, sleeping, or elimination.
 - (4) To be informed by the licensee of the provisions of law regarding complaints and of procedures for confidentially registering complaints, including, but not limited to, the address and telephone number for the complaint receiving unit of the Department, and how to contact the Community Care Licensing Division of the California Department of Social Services, and the long-term care ombudsman regarding grievances in regard to the facility.
 - (5) To have the freedom to attend religious services or activities of their choice either in or outside the facility and to have visits from the spiritual advisor of their choice.
 - (6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit a licensee from establishing house rules, such as locking doors at night to protect residents, or barring windows against intruders, with permission from the Department.
 - (7) To visit the facility prior to residence along with their representatives.
 - (8) To have their representatives regularly informed by the licensee of activities related to care or services, including ongoing evaluations, as appropriate to their needs.
 - (9) To have communications to the licensee from their representatives answered promptly and appropriately.

- (10) To be informed of the licensee's policy concerning visits and other communications with residents, according to Health and Safety Code section 1569.313.

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Health and Safety Code section 1569.313 provides:

"Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

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- (11) To have their visitors, including ombudspersons and advocacy representatives, permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.
- (12) To wear their own clothes; to keep and use their own personal possessions, including their toilet articles; and to keep and be allowed to spend their own money.
- (13) To have access to individual storage space for private use.
- (14) To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.
- (15) To send and receive unopened correspondence in a prompt manner.
- (16) To receive or reject medical care or other services.
- (17) To receive assistance in exercising the right to vote.
- (18) To move from the facility.

- (b) All residents in all residential care facilities for the elderly shall be protected from all of the actions specified in this section. A licensee or facility staff may not take any of the following actions, which also includes taking these actions wholly or partially on the basis of the actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus (HIV) status, of a resident:
- (1) Deny admission to a facility, transfer or refuse to transfer a resident within the facility or to another facility, or discharge or evict a resident from a facility.
 - (2) Deny a request by residents to share a room.
 - (3) Where rooms are assigned by gender, assign, reassign, or refuse to assign, a room to a resident who is transgender other than according to the resident's gender identity, unless at the request of the resident who is transgender.
 - (4) Prohibit a resident from using, or harass a resident who seeks to use or uses, a restroom available to others of the same gender identity, regardless of whether the resident is making a gender transition or appears to be gender-nonconforming. Harassment includes, but is not limited to, requiring a resident to show identity documents to gain entrance to a restroom available to other persons of the same gender identity.
 - (5) Willfully and repeatedly fail to use a resident's preferred name or pronouns after being informed of the resident's preferred name or pronouns in a clear manner.
 - (6) Deny a resident the right to wear or be dressed in clothing, accessories, or cosmetics permitted for any other resident.
 - (7) Restrict a resident's right to associate with other residents or with visitors, including the right to consensual sexual relations. When privacy is required, affected persons shall consent to the arrangement.
 - (A) A licensee is not precluded from restricting or banning sexual relations as long as the restriction or ban is applied uniformly to all residents in a nondiscriminatory manner. All residents and their representatives, including potential residents prior to the time of signing the admission agreement, shall be notified in writing of any such facility restriction or ban.

- (8) Deny or restrict medical or nonmedical care that is appropriate to a resident's organs and bodily needs, or provide medical or nonmedical care to the resident in a manner that, to a similarly situated reasonable person, unduly demeans the resident's dignity or causes avoidable discomfort.
- (c) The provisions of subsection (b) shall not apply to the extent that they are incompatible with the professionally reasonable clinical judgment of a medical professional.
- (d) The Department does not have the authority to waive the personal rights specified in subsection (b).

Authority cited: Section 1569.30 and 1569.318, Health and Safety Code.

Reference: Sections 1439.51, 1569.1, 1569.31, 1569.312 and 1569.313, Health and Safety Code.

Adopt Section 87468.2 to read:

87468.2 ADDITIONAL PERSONAL RIGHTS OF RESIDENTS IN
 PRIVATELY OPERATED FACILITIES

87468.2

(a) In addition to the rights listed in Section 87468.1, Personal Rights of Residents in All Facilities, residents in privately operated residential care facilities for the elderly shall have all of the following personal rights:

- (1) To have a reasonable level of personal privacy in accommodations, medical treatment, personal care and assistance, visits, communications, telephone conversations, use of the Internet, and meetings of resident and family groups.
- (2) To have their records and personal information remain confidential and to approve their release, except as authorized by law.
- (3) To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from interference, coercion, discrimination, and retaliation in exercising their rights.
- (4) To care, supervision, and services that meet their individual needs and are delivered by staff that are sufficient in numbers, qualifications, and competency to meet their needs.
- (5) To be served food of the quality and quantity necessary to meet their nutritional needs.
- (6) To make choices concerning their daily lives in the facility.
- (7) To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding care and services to be provided, according to Health and Safety Code section 1569.80 and involve persons of their choice in this planning. The licensee shall provide necessary information and support to ensure that residents direct the planning of their care to the maximum extent possible, and are enabled to make informed decisions and choices.

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Health and Safety Code section 1569.80 provides:

- "(a) A resident of a residential care facility for the elderly, or the resident's representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident's admission, the facility shall coordinate a meeting with the resident and the resident's representative, if any, an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.
- (b) Once prepared, the written record described in subdivision (a) shall be used by the facility, and, if applicable pursuant to Section 1569.725, the home health agency, to determine the care and services provided to the resident. If the resident has a regular physician, the written record shall be sent by the facility to that physician.
- (c) The written record described in subdivision (a) shall be reviewed, and, if necessary, revised, at least once every 12 months, or upon a significant change in the resident's condition, as defined by regulations, whichever occurs first. The review shall take place at a meeting coordinated by the facility, and attended by the resident, the resident's representative, if any, an appropriate member or members of the facility's staff, and, if the resident is receiving home health services in the facility, a representative from the home health agency involved.
- (d) This section shall not preclude a residential care facility for the elderly or home health agency from satisfying other state or federal obligations at a meeting required by subdivision (a) or (c).
- (e) If the residential care facility for the elderly is a continuing care retirement community, as defined in paragraph (10) of subdivision (c) of Section 1771, this section shall apply only to residents who require care and supervision, as defined in subdivision (b) of Section 1569.2."

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- (8) To be free from neglect, financial exploitation, involuntary seclusion, punishment, humiliation, intimidation, and verbal, mental, physical, or sexual abuse.
- (9) To present grievances and recommend changes in policies, procedures, and services to the facility staff, management, and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall respond to residents' grievances and recommendations promptly.
- (10) To contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances in regard to the licensee. The licensee shall post the telephone numbers and addresses for the local offices of the State Department of Social Services and ombudsman program, according to Section 9718 of the Welfare and Institutions Code, conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents and their representatives.

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Welfare and Institutions Code section 9718 provides:

"Every long-term care facility, as defined in subdivision (b) of Section 9701, shall post in a conspicuous location a notice of the name, address, and phone number of the office and the nearest approved organization, and a brief description of the services provided by the office and the approved organization. The form of the notice shall be approved by the office."

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- (11) To be fully informed, prior to or at the time of admission, of all rules that govern resident conduct and responsibilities while living at the facility, as evidenced by the resident's written acknowledgement. All rules established by a licensee shall be reasonable and not violate any rights in this section or other applicable laws or regulations, according to Health and Safety Code section 1569.885.

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Health and Safety Code section 1569.885 provides:

- (a) When referring to a resident's obligation to observe facility rules, the admission agreement shall indicate that the rules must be reasonable, and that there is a facility procedure for suggesting changes in the rules. A facility rule shall not violate any right set forth in this article or in other applicable laws and regulations.

- (b) The admission agreement shall specify that a copy of the facility grievance procedure for resolution of resident complaints about facility practices shall be made available to the resident or his or her representative.
- (c) The admission agreement shall inform a resident of the right to contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the facility.
- (d) A copy of any applicable resident's rights specified by law or regulation shall be an attachment to all admission agreements.
- (e) The statement of resident's rights attached to admissions agreements by a residential care facility for the elderly shall include information on the reporting of suspected or known elder and dependent adult abuse, as set forth in Section 1569.889."

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- (12) To receive in the admission agreement a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services, and to receive written notice of any rate increases according to Health and Safety Code sections 1569.655 and 1569.884.

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Health and Safety Code section 1569.655 provides:

- "(a) If a licensee of a residential care facility for the elderly increases the rates of fees for residents or makes increases in any of its rate structures for services, the licensee shall provide no less than 60 days' prior written notice to the residents or the residents' representatives setting forth the amount of the increase, the reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident. This subdivision shall not apply to optional services that are provided by individuals, professionals, or organizations under a separate fee-for-service arrangement with residents.

- (b) No licensee shall charge nonrecurring lump-sum assessments. The notification requirements contained in subdivision (a) shall apply to increases specified in this subdivision. For purposes of this subdivision, "nonrecurring lump-sum assessments" mean rate increases due to unavoidable and unexpected costs that financially obligate the licensee. In lieu of the lump-sum payment, all increases in rates shall be to the monthly rate amortized over a 12-month period. The prohibition against a lump-sum assessment shall not apply to charges for specific goods or services provided to an individual resident.
- (c) If a licensee increases rates for a recipient under the State Supplementary Program for the Aged, Blind and Disabled, described in Article 5 (Commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, the licensee shall meet the requirements for SSI/SSP rate increases, as prescribed by law.
- (d) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (5) of subdivision (c) of Section 1771."

Health and Safety Code section 1569.884 provides:

"The admission agreement shall include all of the following:

- (a) A comprehensive description of any items and services provided under a single fee, such as a monthly fee for room, board, and other items and services.
- (b) A comprehensive description of, and the fee schedule for, all items and services not included in a single fee. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.
- (c) A facility may assess a separate charge for an item or service only if that separate charge is authorized by the admission agreement. If additional services are available through the facility to be purchased by the resident that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to the resident or the resident's representative. A statement acknowledging the acceptance or refusal to purchase the additional services shall be signed and dated by the resident or the resident's representative and attached to the admission agreement.

- (d) An explanation of the use of third-party services within the facility that are related to the resident's service plan, including, but not limited to, ancillary, health, and medical services, how they may be arranged, accessed, and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.
- (e) A comprehensive description of billing and payment policies and procedures.
- (f) The conditions under which rates may be increased pursuant to Section 1569.655.
- (g) The facility's policy concerning family visits and other communication with residents, pursuant to Section 1569.313.
- (h) The facility's policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident's death, pursuant to Section 1569.652.
- (i) Conditions under which the agreement may be terminated.
- (j) An explanation of the facility's responsibility to prepare a relocation evaluation, for each resident and a closure plan and to provide notice in the case of an eviction pursuant to Section 1569.682."

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- (13) To be informed in writing prior to or at the time of admission, of any resident retention limitations set by the state or licensee, including any limitations or restrictions on the licensee's ability to meet residents' needs.
- (14) To reasonable accommodation of their individual needs and preferences in all aspects of life in the facility, except when accommodation would endanger the health or safety of the individual resident or other residents.
- (15) To reasonable accommodation of their preferences concerning room and roommate choices.
- (16) To written notice of any room changes at least 30 days in advance unless a room change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency.
- (17) To share a room with their spouse, domestic partner, or a person of their choice when both spouses, partners, or residents live in the facility and both consent to the arrangement.

- (18) To select their own physicians, pharmacies, privately paid personal assistants, hospice agency, and health care providers in a manner that is consistent with the resident's admission agreement or other rules of the facility, and according to these personal rights.
- (19) To have prompt access to review all of their records and to purchase photocopies of their records. Photocopied records shall be provided within two (2) business days and at a cost that does not exceed the community standard for photocopies.
- (20) To be protected from involuntary transfers, discharges, and evictions. A licensee shall not involuntarily transfer or evict residents for reasons other than those permitted by state law or regulations and shall comply with all eviction and relocation protections for residents. For purposes of this paragraph, "involuntary" means a transfer, discharge, or eviction that is initiated by the licensee, not by the resident.
- (21) To consent to have their relatives and other individuals of their choosing visit during reasonable hours, privately, and without prior notice.
- (22) To receive written information on the right to establish an advance health care directive and the licensee's written policies on honoring an advance health care directive according to Health and Safety Code section 1569.156.

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Health and Safety Code section 1569.156 provides:

- "(a) A residential care facility for the elderly shall do all of the following:
- (1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.
 - (2) Provide education to staff on issues concerning advance directives.
 - (3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.

(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph (3).

(b) For purposes of this section, "advance directive" means an "advance health care directive," as defined in Section 4605 of the Probate Code, or some other form of instruction recognized under state law specifically addressing the provision of health care."

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(23) To be encouraged to develop and maintain their fullest potential for independent living through participation in activities designed and implemented for this purpose, according to Section 87219.

(24) To organize and participate in a resident council established according to Health and Safety Code section 1569.157.

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Health and Safety Code section 1569.157 provides:

"(a) Every licensed residential care facility for the elderly, at the request of two or more residents, shall assist the residents in establishing and maintaining a single resident council at the facility. The resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.

(b) A resident council may, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights.

(c) If a resident council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to those concerns or recommendations within 14 calendar days.

(d) Facility policies on resident councils shall not limit the right of residents to meet independently with outside persons or facility personnel.

- (e) Each resident council member shall be informed by the facility of his or her right to be interviewed as part of the regulatory inspection process.
- (f) Facilities shall promote resident councils as follows:
 - (1) If a facility has a resident council, the facility shall inform new residents of the existence of the resident council. The facility shall also provide information on the time, place, and dates of resident council meetings and the resident representative to contact regarding involvement in the resident council.
 - (2) If a facility has a resident council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison to assist the resident council, make a room available for resident council meetings, and post meeting information in a central location readily accessible to residents, relatives, and resident representatives.
 - (3) If a facility does not have a resident council, upon admission, the facility shall provide written information on the resident's right to form a resident council to the resident and the resident representative, as indicated in the admissions agreement.
 - (4) Upon request, and with the permission of the resident council, the facility shall share the name and contact information of the designated representative of the resident council with the long-term care ombudsman program.
- (g) A facility shall not willfully interfere with the formation, maintenance, or promotion of a resident council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a resident council, refusal to publicize resident council meetings or provide appropriate space for either meetings or a bulletin board, or failure to respond to written requests by the resident council in a timely manner.
- (h) The text of this section with the heading "Rights of Resident Councils" shall be posted in a prominent place at the facility accessible to residents, family members, and resident representatives.

- (i) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars (\$250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department."

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- (25) To protection of their property from theft or loss according to Health and Safety Code sections 1569.152, 1569.153, and 1569.154.

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Health and Safety Code section 1569.152 provides:

- "(a) A residential care facility for the elderly, as defined in Section 1569.2, which fails to make reasonable efforts to safeguard resident property shall reimburse a resident for or replace stolen or lost resident property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard resident property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1569.153. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.
- (b) A civil penalty shall be levied if the residential care facility for the elderly has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1569.153. The State Department of Social Services shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.
- (c) The department shall not determine that a facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility."

Health and Safety Code section 1569.153 provides:

"A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

- (a) Establishment and posting of the facility's policy regarding theft and investigative procedures.
- (b) Orientation to the policies and procedures for all employees within 90 days of employment.
- (c) Documentation of lost and stolen resident property with a value of twenty-five dollars (\$25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:
 - (1) A description of the article.
 - (2) Its estimated value.
 - (3) The date and time the theft or loss was discovered.
 - (4) If determinable, the date and time the loss or theft occurred.
 - (5) The action taken.
- (d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made

available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

- (e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.
- (f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.
- (g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.
- (h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.
- (i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars (\$100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Social Services and law enforcement agencies.
- (j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

- (k) A copy of this section and Sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.
- (l) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.
- (m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section."

Health and Safety Code section 1569.154 provides:

"No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a residential care facility for the elderly, shall require or imply a lesser standard of responsibility for the personal property of residents than is required by law."

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- (26) To manage their financial affairs. A licensee shall not require residents to deposit their personal funds with the licensee. Except as provided for in approved continuing care agreements, a licensee, or a spouse, domestic partner, relative, or employee of a licensee, shall not do any of the following:
 - (A) Accept appointment as a guardian or conservator of the person or estate of a resident.
 - (B) Become or act as a representative payee for any payments made to a resident, without the written and documented consent of the resident or the resident's representative.
 - (C) Serve as an agent for a resident under any general or special power of attorney.
 - (D) Become or act as a joint tenant on any account with a resident.
 - (E) Enter into a loan or promissory agreement or otherwise borrow money from a resident without a notarized written agreement outlining the terms of the repayment being given to the resident.

- (27) To keep, have access to, and use their own personal possessions, including toilet articles, and to keep and be allowed to spend their own money, unless limited by statute or regulation.
- (b) A licensed residential care facility for the elderly shall not discriminate against a person seeking admission or a resident based on the person's or resident's sex, race, color, religion, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, or actual or perceived gender identity.
- (c) No provision of a contract of admission, including all documents that a resident or their representative is required to sign as part of the contract for, or as a condition of, admission to a residential care facility for the elderly, shall require that a resident waive benefits or rights to which they are entitled as specified in these regulations or as provided by federal or other state law or regulation.
- (d) Residents' family members, friends, and representatives have the right to organize and participate in a family council that is established according to Health and Safety Code section 1569.158.

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Health and Safety Code section 1569.158 provides:

- "(a) A residential care facility for the elderly shall not prohibit the formation of a family council. When requested by a member of the resident's family or the resident representative, a family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.
- (b) Facility policies on family councils shall in no way limit the right of residents and participants in a family council to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.
- (c) "Family council" for the purpose of this section means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.
- (d) Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.
- (e) Facility personnel or visitors may attend a family council meeting only at the family council's invitation.

- (f) If a family council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the concerns or recommendations within 14 calendar days.
- (g) (1) If a facility has a family council, the facility shall include notice of the family council and its meetings to family members and resident representatives in routine mailings and shall inform family members and resident representatives of new and current residents who are identified on the admissions agreement during the admissions process or in the resident's records, of the existence of the family council, the time and place of meetings of the family council, and the name of the family council representative.
- (2) If a facility does not have a family council, the facility shall provide, upon admission of a new resident, written information to the resident's family or resident representative of their right to form a family council.
- (3) Upon request, and with the permission of the family council, the facility shall share the name and contact information of the designated representative of the family council with the long-term care ombudsman program.
- (h) If a facility has a family council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison who shall be responsible for providing assistance to the family council and responding to written requests that result from family council meetings.
- (i) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but shall not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, or failure to respond to written requests by a family council in a timely manner.
- (j) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars (\$250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department."

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- (e) The rights specified in this section shall be in addition to any other rights provided by law.
- (f) The Department does not have the authority to waive the personal rights specified in subsection (a).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.152, 1569.153, 1569.154, 1569.156, 1569.157, 1569.261, 1569.265, 1569.267, 1569.269, 1569.31, 1569.312, 1569.655, 1569.80, 1569.884 and 1569.885, Health and Safety Code; and Section 9718, Welfare and Institutions Code.

Amend Section 87506 to read:

87506 RESIDENT RECORDS

87506

(a) (Continued)

(b) Each resident's record shall contain at least the following information:

(1) Resident's legal name and preferred name, as indicated by the resident
~~and Social Security number.~~

(2) Social Security number.

(3) Gender identity and preferred pronoun, as indicated by the resident.

(24) (Continued)

(35) (Continued)

(46) (Continued)

(57) (Continued)

(68) Names, addresses, and telephone numbers of ~~responsible persons~~ the
resident's representative, as defined in Section 87101(r), to be notified in
case of accident, death, or other emergency.

(79) (Continued)

(810) Reports of the medical assessment specified in Section 87458, Medical
Assessment, and of any special problems or precautions.

(911) The documentation required by Section 87611(a) for residents with an
allowable health condition.

(1012) (Continued)

(1113) Continuing record of any illness, injury, or medical or dental care, when it
impacts the resident's ability to function or ~~the~~ needed services ~~he~~
~~needs~~.

- (~~14~~14) Current centrally stored medications as specified in Section 87465, Incidental Medical and Dental Care Services.
- (~~13~~15) The admission agreement and pre-admission appraisal, specified in Sections 87507, Admission Agreements and 87457, Pre-admission Appraisal.
- (~~14~~16) Records of resident's cash resources as specified in Section 87217, Safeguards for Resident Cash, Personal Property, and Valuables.
- (~~15~~17) Documents and information required by the following:
 - (A) Section 87457, Pre-Admission Appraisal;
 - (B) Section 87459, Functional Capabilities;
 - (C) Section 87461, Mental Condition;
 - (D) Section 87462, Social Factors;
 - (E) Section 87463, Reappraisals; and
 - (F) Section 87505, Documentation and Support.

(c) – (e) (Continued)

Authority cited: Section 1569.30 and 1569.318, Health and Safety Code.

Reference: Sections 1439.52, 1569.1, 1569.2, 1569.31, 1569.312 and 1569.315, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

Amend Section 87612 to read:

87612 RESTRICTED HEALTH CONDITIONS

87612

- (a) The licensee may provide care for residents who have any of the following restricted health conditions, or who require any of the following health services:

(1) - (9) (Continued)

(10) Stage 1 and 2 ~~pressure sores (dermal ulcers)~~ pressure injuries as specified in Section 87631(a)(3).

(11) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

Amend Section 87615 to read:

87615 PROHIBITED HEALTH CONDITIONS

87615

- (a) Persons who require health services for or have a health condition including, but not limited to, those specified below shall not be admitted or retained in a residential care facility for the elderly:
- (1) Stage 3 and 4 ~~pressure sores (dermal ulcers)~~ pressure injuries or deep tissue pressure injuries.
 - (2) Unstageable pressure injuries or deep tissue pressure injuries.
 - (23) ~~Gastrostomy care~~ tubes.
 - (34) Naso-gastric tubes.
 - (45) Staphylococcus aureus ("staph") infection or other serious infection.
 - (56) Residents who depend on others to perform all activities of daily living for them as set forth in Section 87459, Functional Capabilities.
 - (67) Tracheostomies.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

Amend Section 87631 to read:

87631 HEALING WOUNDS

87631

(a) Except as specified in Section 87611(a), the licensee shall be permitted to accept or retain a resident who has a healing wound under the following circumstances:

(1) - (2) (Continued)

(3) Residents with a stage one or two ~~pressure sore (dermal ulcer)~~ pressure injury must have the condition diagnosed by a physician or an appropriately skilled professional.

(A) The resident shall receive care for the ~~pressure sore (dermal ulcer)~~ pressure injury from a physician or an appropriately skilled professional.

(B) All aspects of care performed by the medical professional and facility staff shall be documented in the resident's file.

(b) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.